

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

LEON STAMBLER,
Plaintiff,

vs.

AMAZON.COM, INC., *et al.*
Defendants.

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Civil Action No. 2:09cv310

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT
PURSUANT TO LOCAL PATENT RULE 4-3

Pursuant to Local Patent Rule 4-3 and the Court's Docket Control Order (Dkt. # 278, Plaintiff Leon Stambler ("Stambler") and Defendants American Airlines, Inc., Expedia, Inc., Hotels.com, LP, J.C. Penney Company, Inc., J.C. Penney Corporation, Inc., Limited Brands, Inc., Macy's, Inc., Macys.com, Inc., Neiman Marcus Group, Inc., Neiman Marcus, Inc., Newegg Inc., Newegg.com, Inc., OfficeMax Incorporated, QVC, Inc., Sabre Holdings Corporation, Sears Brands, LLC, Sears Holding Corporation, Staples, Inc., Ticketmaster Entertainment, Inc., Ticketmaster L.L.C., Travelocity.com LP, Victoria's Secret Direct Brand Management, LLC, and Victoria's Secret Stores Brand Management, Inc. (collectively "Defendants") submit this joint claim construction and prehearing statement.

I. AGREED TERMS

Pursuant to P. R. 4-3(a), the parties agree on the construction of the following claim terms, phrases, or clauses, of the patents-in-suit, U.S. Patent No. 5,793,302 ("302 patent") and U.S. Patent No. 4,974,148 ("148 patent"):

<u>Patent / Claim(s)</u>	<u>Term</u>	<u>Agreed Construction</u>
'302 patent, claims 41, 44, 47,	associated with	identified with or having a

<u>Patent / Claim(s)</u>	<u>Term</u>	<u>Agreed Construction</u>
51 '148 patent, claim 28		connection to
'302 patent, claims 41, 51	if the at least a portion of the received funds transfer information and the VAN are determined to be authentic	if the at least a portion of the received funds transfer information is unchanged and the VAN is not fraudulent
'302 patent, claims 43, 44, 53 '148 patent, claims 28, 35	payment	compensation in exchange for goods or services or the discharge of a debt
'148 patent, claim 35	error detection code	the result of applying an algorithm to information in such a manner as to permit detection of changes but without complete recovery of the original information
'148 patent, claim 35	creating an error detection code by coding	creating an error detection code (EDC1) by applying an algorithm to information in such a manner as to permit detection of changes but without complete recovery of the original information
'302 patent, claim 41	a third party for determining	a party, other than the first or second parties, that performs the determining step of the claim
'148 patent, claim 34	the adequacy of the funds in the first party's account being verified after the instrument is issued	the instrument being issued before verifying whether an account of the first party has adequate funds or credit to cover or pay the instrument
'302 patent, claim 47, 51	credential information	information stored or contained in a credential

If the parties are able to reach further agreement concerning the constructions of any of the remaining claim terms, phrases, or clauses at issue, they will supplement this Statement.

II. PROPOSED CONSTRUCTIONS; INTRINSIC AND EXTRINSIC EVIDENCE

Pursuant to P.R. 4-3(b), the parties' proposed constructions of disputed claim terms, phrases, or clauses are reflected in the table attached as Exhibit A, together with references from the specification or prosecution history that support the construction and an identification of any extrinsic evidence.¹ Tables indicating where the disputed claim terms, phrases or clauses appear in the asserted claims of the '302 patent and the '148 patent with reference numbers corresponding to those in Exhibit A are attached as Exhibit B and Exhibit C, respectively. The parties expressly reserve the right to rely on any intrinsic and extrinsic evidence identified by the other party, and any evidence obtained, or that may be obtained, through claim construction discovery. Each party expressly reserves the right (subject to the other parties' objections, if any) to amend, correct, or supplement its claim construction positions and supporting evidence in response to any change of position by the other party, in response to information received through claim construction discovery, including inventor depositions and expert depositions concerning claim construction declarations, or for other good cause.

III. HEARING LENGTH

Pursuant to P. R. 4-3(c), Plaintiff believes three (3) hours and Defendants believe four (4) hours would be appropriate for the Claim Construction Hearing. The time permitted by the Court should be divided equally between the two sides.

IV. WITNESSES

The parties do not believe that any testimony is required at the claim construction hearing.

¹ Defendants note that they allege that the asserted claims are invalid including for failing to comply with 35 U.S.C. §§ 101, 112. Defendants' proposed constructions for terms, phrases, or clauses with respect to claims and limitations that fail to satisfy 35 U.S.C. § 112 should in no way be read to imply that the claims satisfy 35 U.S.C. §§ 101, 112.

V. OTHER ISSUES

According to the Docket Control Order, any prehearing conference necessary prior to the claim construction hearing will be held on December 15, 2010. The parties do not believe a prehearing conference is necessary. The parties may submit tutorials to the Court on disk, and if so will submit their respective tutorials on or by December 6, 2010.

Dated: September 22, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of this document has been served on all counsel of record via electronic mail per agreement of the parties on this 22nd day of September, 2010.

/s/ Tonya M. Gray
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